



Title: The right to food in theory and practice...

[Español](#) [Français](#)[More details](#)

PAGE < TOC > PAGE >

The human right to adequate food and freedom from hunger

Asbjørn Eide

Senior Fellow and former Director, Norwegian Institute of Human Rights; Special Rapporteur on the Right to Adequate Food as a Human Right, the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities



In Ghana rice and beans are mixed together and cooked to make wakye

The right to food means access to enough food to meet the basic nutritional needs of everyone.

The Heads of State and Government gathered in Rome at the World Food Summit at the invitation of FAO, reaffirmed on November 13 1996 the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger. They considered it intolerable that more than 800 million people throughout the world, and particularly in developing countries, do not have enough food to meet their basic nutritional needs, and pledged their political will and their common and national commitment to achieving food security for all and to an ongoing effort to eradicate hunger in all countries. They formally renewed their commitment to the right to adequate food and recommended that the content of this right be defined more clearly and ways to implement it be identified.

The international human rights system

The contemporary international human rights system was born in 1948 when the United Nations General Assembly adopted the Universal

Declaration of Human Rights (UDHR) as "... a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance."

The "Four Freedoms" address of United States President Roosevelt, in January 1941, was of special importance in the preparation of the Declaration, which included freedom from want as one of those rights.¹ In the negotiations for the UDHR in 1947-1948, the United States delegation played a major role, emphasizing that economic and social rights should be included as well as the civil rights that set out the fundamental freedoms, since - in the words of the United States delegation - "a man in need is not a free man". In his 1944 State of the Union address, Roosevelt had advocated the adoption of an "Economic Bill of Rights", saying that:

"We have come to the clear realization of the fact that true individual freedom cannot exist without economic security and independence. `Necessitous men are not free men.` People who are hungry and out of jobs are the stuff of which dictatorships are made."²

The great contribution of the UDHR is that it extended the human rights platform to embrace the whole field - civil, political, economic, social and cultural - and interrelated the different rights, making them mutually reinforcing.

The International Bill of Human Rights includes the UDHR and the two Covenants prepared on the basis of that Declaration, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both adopted in 1966.

Economic, social and cultural rights constitute three interrelated components of a more comprehensive package, with links to civil and political rights. At the core of social rights is the right to an adequate standard of living (UDHR Article 25; ICESCR Article 11; the International Convention on the

Rights of the Child (CRC) Article 27). The enjoyment of these rights requires, at a minimum, that everyone shall enjoy the necessary subsistence rights - adequate food and nutrition, clothing, housing and the necessary conditions of care. Closely related to these rights are the right of families to assistance, the right to property, the right to work and the right to social security, all of which can be found in the international instruments.

The right to adequate food

According to UDHR Article 25(1), "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing...". Under ICESCR Article 11, the States Parties "recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing...". In paragraph 2 of the same article, the States Parties to the Covenant recognize the fundamental right of everyone to be free from hunger and list measures to be taken individually and through international cooperation in order to bring hunger to an end.

Under CRC Article 27, "States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development".

The right to an adequate standard of living sums up the underlying concern of all economic and social rights, which is to integrate everyone into a humane society. This right is closely linked to the guiding principle of the whole human rights system, that everyone is born free and equal in dignity and rights and should act towards each other in a spirit of fraternity (UDHR Article 1).

The general concept of adequate food can be broken down into several elements: the food supply should be adequate, which means that the types of foodstuffs commonly available (nationally, in local markets and, ultimately, at the household level) should be culturally acceptable (fit in with the prevailing food or dietary culture); the available supply should cover overall nutritional needs in terms of quantity (energy) and quality (it should

provide all the essential nutrients, including micronutrients such as vitamins and iodine); and, last but not least, food should be safe (free of toxic elements and contaminants) and of good quality (in terms of, for example, taste and texture).

The UDHR envisaged that everyone throughout the world should enjoy the rights contained therein. These rights were to be absorbed into the legal, administrative and political culture of nations, through recognition followed by implementation in national law and administration, including any necessary political and social reforms. Global institutions had to be set up, some of them to monitor the implementation of human rights worldwide and others, such as FAO, to provide assistance and cooperation in facilitating the enjoyment of these rights for all. The UDHR was initially an expression of ideal goals to be achieved. The process of transforming these ideals into hard law at the international level started with the adoption of the two Covenants in 1966, followed by numerous more specific conventions. While these created obligations for states under international law, the main task was to ensure that rights were incorporated into national law and administrative practice, and that conditions were created under which it would be possible for states to meet their obligations.

State obligations

Under ICESCR Article 2, States Parties have undertaken legally binding obligations to take steps, to the maximum of their available resources, to achieve progressively the full realization of the economic and social rights in that Covenant.

A basic misconception, which has had a negative affect on the implementation of economic and social rights, is that such rights must be provided by the state. In the past, this misconception caused many people to oppose economic and social rights, on the assumption that they were costly, undermined creativity, removed incentives and led to an overgrown state apparatus. It is now widely recognized that this view resulted from a misunderstanding of the nature of these rights and particularly of the corresponding state obligations.

A realistic understanding of state obligations must take into account, as is stated in the United Nations Declaration on the Right to Development Article 2, that the individual is the active *subject*, not the object, of economic and social development. Most human beings strive to take care of their own livelihoods through their own efforts and resources, individually or in association with others. If individuals are to be able to use their own resources, however, they must have resources that can be used. Typically, an individual's usable resources are land or other capital and/or labour, combined with the knowledge necessary to achieve optimal utilization of all the other resources he or she controls. The realization of many of an individual's economic, social and cultural rights will, in most cases, take place within the context of a household as the smallest economic unit. This means that attention must also be paid to the female/male division of labour and control over production and consumption, and to various forms of wider kinship arrangements that influence the nature and practical operation of the concept of "family".

Since state obligations must be seen in the light of the assumption that human beings, families and wider groups seek to find their own solutions to their needs, states should, at the *primary* level, *respect* the resources owned by the individual and the individual's freedom to find a job of preference, to make optimal use of her or his own knowledge and to take the necessary actions and use the necessary resources - alone or in association with others - to satisfy his or her own needs.

The state cannot, however, be passive in its acknowledgement of these rights and freedoms. Third parties are likely to interfere negatively with the possible options that individuals or groups otherwise might have had to satisfy their own needs. At a *secondary* level, therefore, state obligations include active *protection* against other, more assertive or aggressive subjects, in particular against more powerful economic interests. There is a need for state protection from fraud, unethical behaviour in trade and contractual relations, and the marketing and dumping of hazardous or dangerous products. This protective function of the state is widely used and is the most important aspect of state obligations with regard to economic, social and

cultural rights, similar in importance to the role of the state as protector of civil and political rights.

Significant components of the obligation to protect are already spelled out in the existing law of most states, and legislation of this kind must be based on the specific requirements within the individual country concerned. This is one of the reasons for the relative vagueness in the formulations of economic and social rights in international instruments - such rights should be clarified by specific legislation within each country, taking into account the situation prevailing there.

At the *tertiary* level, the state has the obligation to facilitate opportunities by which the rights listed can be enjoyed or, when the other obligations are insufficiently met, to provide such opportunities and thus *fulfil* the rights.

Facilitation takes many forms. With regard to the right to food, for example, under ICESCR Article 11(2), the state shall take steps to "improve measures of production, conservation and distribution of food by making full use of technical and scientific knowledge and by developing or reforming agrarian systems."

The obligation to fulfil rights by providing the needs listed in the instruments is important both during emergencies and under normal circumstances. During emergencies, when the conditions for survival are temporarily disrupted (as a result of, for example, severe draught or flood, armed conflict or the collapse of economic activities within particular regions of a country), the obligations of the state on whose territory the emergency occurs must be supplemented by assistance from outside. The existence of international obligations to cooperate when such needs arise is increasingly recognized.

A more permanent feature of the obligation to fulfil is that it becomes more important with increasing rates of urbanization and the decline of group or family responsibilities. Obligations towards the elderly and disabled, who in traditional agricultural society were taken care of by their families, must increasingly be borne by the state and, thus, by the national society as a whole.

The obligation to fulfil therefore consists of the direct provision of basic needs such as food or resources which can be used for food (through direct food aid or social security) when no other possibility exists, for example: i) when unemployment sets in (such as during economic recession); ii) for the disadvantaged and elderly; iii) during sudden situations of crisis or disaster; and iv) for those who are marginalized (as a result of, for example, structural transformations in the economy and production).

Concluding remarks

Economic and social rights are an important part of the human rights system as it has been formulated and consolidated since the adoption of the UDHR in 1948, but there has been limited political will to enforce them. The Declaration and Plan of Action adopted by the World Food Summit has changed this situation significantly. The follow-up, through cooperation between the High Commissioner for Human Rights, FAO and its Committee on World Food Security as well as other food organizations, the United Nations Children's Fund (UNICEF), the Sub-Committee on Nutrition of the United Nations Administrative Coordinating Committee (ACC-SCN) and other bodies, is likely to place the issue of the right to food more centrally on the international agenda. The outcome that is hoped for is that a long-standing commitment be transformed into reality and that by the early decades of the next millennium everyone will be able to enjoy the right to adequate food.

¹ On the Roosevelt conception of freedom from want as a source of contemporary conceptions of human rights, see Eide, A., Oshaug, A. and Eide, W.B. 1991. Food security and the right to food in international law and development. *Transnational Law and Contemporary Problems* (University of Iowa), 1:2, 415-467; and Alston, P. 1990. US ratification of the Covenant on Economic, Social and Cultural Rights: the need for an entirely new strategy. *American Journal of International Law*, Vol. 84. On the historical evolution of the broad concept of human rights, see Marshall, T.S. 1959. *Citizenship and social class and other essays*. Cambridge, UK, Cambridge University Press; and Dahrendorf, R. 1988. *The modern social conflict: an essay on the politics of liberty*. London, Weidenfeld and Nicolson.

² Quoted in Alston, 1990, p. 387.